

REMARKS

The Examiner is sincerely thanked for indicating the withdrawal of all rejections over art, and for indicating the allowability of all claims in the present application once the rejections under 35 U.S.C §112 are overcome.

It is noted that the Advisory Action mailed February 10, 2005 argues that Applicants' amendment of January 26, 2005 makes components (C) and (D) "optional" in claims 1 and 72. While it is submitted that such an interpretation is contrary to the plain meaning of these claims, the language has been clarified.

Requirement for Restriction

Solely claim 22 remains withdrawn from consideration in the present application. This claim is drawn to an "article according to claim 21" which is decorated by sublimation and coated with a transparent protective layer. Claim 21, directed to an article produced by injection molding of a composition according to claim 1, has been examined. It is therefore submitted that there is absolutely no basis upon which a restriction of claim 22 can be based. Indeed, claim 22 requires *all* of the elements of the construct of claim 21, and as such is related as combination-to-subcombination. The requisite 2-way distinctness necessary to support a restriction requirement in such a situation has not been established. Moreover, it is submitted that an examination of the coated article of claim 21 can be made without any additional burden whatsoever upon the PTO and, as such, *must* be examined herein. See M.P.E.P. §803.

Rejections Under 35 U.S.C §112

The Examiner is thanked for the careful review of the claims spanning pages 2 -4 of the Office Action. The majority of typographical and support issues have been remedied by the foregoing minor amendments. As such, it is submitted that all of the issues raised in this portion of the Office Action are moot. For purposes of clarity, it is further noted that the recitation "said composition being semi-crystalline" finds *express* written description at page 6, lines 21 - 26, discussing the semi-crystalline nature of the "composition of the invention." Thus, the recitation in no way constitutes new matter.

Accordingly, the only issue of significance outstanding in the Office Action is the argument that the claims are indefinite as a result of potential overlap between the various components of the composition. It is apparent, for example at page 4 of the Office Action, that the "only" basis for alleging indefiniteness is the potential overlap between the recited components. It is respectfully submitted that such is a highly impermissible and expressly prohibited basis upon which to support an indefiniteness rejection. Section 2173.05(h) of the M.P.E.P. unequivocally states, "the double inclusion of an element by members of a Markush Group is not, in itself, sufficient basis for objection to or rejection of claims." The M.P.E.P. continues that the "mere fact that a compound may be embraced by more than one member of a Markush Group recited in the claims does not necessarily render the scope of the claim unclear. For example, the Markush Group, 'selected from the group consisting of amino, halogen, nitro, chloro and alkyl' should be acceptable even though 'halogen' is generic to 'chloro.'" The M.P.E.P. continues that the issue of indefiniteness should be evaluated based on whether the claim, itself, would be understood by one of ordinary skill in the art, and not subject to a per se rule based on any double inclusion.

In the present situation, the claim clearly is understood without any difficulty by one of ordinary skill in the art, despite any perceived overlap in the elements of the claim. For example, it is evident from the claim language that a polyamide (A) and polyamide (B) must be present. Similarly, it is evident that polyamide (C) must be present. Compatibilizer (D) is stated as being a compatibilizer "for (A) and (B)". It is not seen that adding additional (A) or (B) would function as a compatibilizer for (A) and (B). However, if a further polyamide different from (A) and (B) would do so, then such a material is clearly included in the claim. This is an analysis that is routine and well understood by one of ordinary skill in the art, and representative compatibilizers are given in the specification, along with the definition of the compatibilizer, in the paragraph bridging pages 16 and 17, and in the first full paragraph at page 17 of the specification. Indeed, the Office Action does not appear to suggest that one of ordinary skill in the art would not be able to select a compatibilizer, but rather suggests that, because the compatibilizers overlap with the polyamides in (A) one of ordinary skill in the art "does not know how many components" would be present in the claims. This is submitted to be a trivial non-issue. As stated above, one

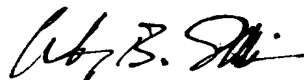
of ordinary skill in the art can easily and routinely select a compatibilizer even if from the same genus as (A) or (B), and to argue that (A) and (B) could also be (A), (B) and (C) - with (C) being invisible since it is the same as (A) and (B) - would never be the understanding of one of ordinary skill.

With respect to modifier (M), similar issues apply. Representative modifiers (M) are given in the paragraph bridging pages 17 and 18 of the specification, and in the passages of the specification continuing on through page 20. Although modifier (M) overlaps with some of the same materials as one of the foregoing components, the "modifier" must achieve the modification function, i.e., softening or improvement of impact strength, as discussed at page 20 of the specification. It is not seen why one of ordinary skill in the art would have any difficulty preparing such a composition or evaluating whether a given composition contains (M). If M were the same as (A), (B) or (C), how could the composition be "modified"? As a result, it is submitted that the interpretation taken by the PTO as rendering the claim indefinite would never be accepted by one of ordinary skill in the art. Accordingly, it is submitted that the claim is clearly definite, and withdrawal of the rejection is respectfully requested.

In conclusion, it is submitted that the claims are in condition for allowance, and passage to issue is respectfully requested. However, if the Examiner has any questions or comments, she is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin, Reg. No. 32,004

Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201

Telephone: (703) 243-6333
Facsimile: (703) 243-6410
Attorney Docket No.: ATOCM-0246

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